

FILED

MAY 10, 2007

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STUART RABNER
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

By: David M. Puteska
Deputy Attorney General
Tel. (973) 648-2478

EFFECTIVE

MAY 9, 2007

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

MICHAEL P. STEIN, M.D.
LICENSE NO. MA03981000

TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Medical Examiners (the "Board") on April 2, 2007 by the Attorney General of New Jersey (David M. Puteska, Deputy Attorney General, appearing) upon the filing of an Order to Show Cause and Verified Complaint seeking a temporary suspension of Dr. Michael P. Stein's license to practice medicine. The Verified Complaint alleged that Dr. Stein had engaged in gross negligence by improperly handling/disposing of cocaine soaked pledgetts following their use in surgery at Saint Clare's Hospital in Dover, New Jersey ("St. Clares") on February 23, 2007. The Verified Complaint further alleged that Dr. Stein tested positive for the presence of cocaine during a urine screen conducted at Saint Clares on

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February 23, 2007. The Board's file in this matter reflects that Dr. Stein has a history of substance abuse, as well as a previous suspension from practice by the Board.

On April 11, 2007, Dr. Dr. Stein agreed to an Interim Consent Order with the Board. Pursuant to the Interim Consent Order, Dr. Stein agreed to voluntarily surrender his license to practice medicine and surgery without prejudice or admissions pending the disposition of the Order to Show Cause or further order of the Board.

In or about February 2007, following the suspension of his privileges at St. Clares, Dr. Stein contacted the Professional Assistance Program ('PAP'). Pursuant to his involvement with PAP, Dr. Stein has been subject to twice weekly random urine screens since February 2007. The results of all PAP urine screens have been negative. On April 11, 2007, Dr. Stein was subject to a hair analysis. The hair analysis was negative for the presence of cocaine. According to the PAP, Dr. Stein's hair analysis would have been positive if he were a habitual user of cocaine.

On May 2, 2007, the PAP recommended that Dr. Stein be subject to ongoing random urine screening to assure that he remained drug free. The PAP also opined that with appropriate PAP monitoring and continued urine monitoring, it wholeheartedly endorsed Dr. Stein's return to the practice of medicine.

Based upon the information included in the Verified Complaint, and subsequent information developed through Dr. Stein's participation with, and evaluation by, the Professional Assistance Program of New Jersey ("PAP"), and the Board finding the within disposition to be adequately protective of the public health, safety and welfare,

IT IS on this 9th day of May, 2007

ORDERED as follows:

1. Dr. Stein is hereby reprimanded for his improper handling and disposal of cocaine soaked pledgetts following their use in surgery at St. Clares Hospital on February 23, 2007. In view of the fact that a voluntary surrender of Dr. Stein's medical license for thirty (30) days has already occurred, the Board will accept this voluntary surrender in lieu of an active suspension and impose a period of probation for a minimum of one (1) year effective upon entry of the within Order;

2. As a condition of the probation imposed in paragraph 1, Dr. Stein will comply fully with the monitoring program established for him by the PAP. Such monitoring program shall include, but not be limited to:

a. Absolute abstinence from drugs and alcohol with the exception of medication prescribed by a treating physician for a documented medical condition with notification to the Medical Director of the PAP;

b. Random urine monitoring under the supervision of the PAP on a random, unannounced basis, at a frequency to be determined by the PAP, but no less than 2 times per week. All test results shall be provided in the first instance directly to the PAP and any positive result, dilute urine specimen, non-appearance for a scheduled urine test and/or other non-compliant behavior shall be reported within twenty-four (24) hours by the PAP to the Executive Director of the Board. Any failure by Dr. Stein to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be an act of non-compliance with the terms of this order absent an excuse satisfactory to the PAP;

c. Dr. Stein shall submit to continued monitoring by the PAP and shall meet with a representative of the PAP on a face-to-face basis at least once a month. Dr. Stein agrees that the

PAP shall advise the Board immediately in the event it receives information or evidence of noncompliant behavior; and

d. Participation in aftercare as prescribed by the Executive Director of the PAP.

3. In the event that any urine testing indicated above is positive for any illegal substance or Controlled Dangerous Substance or Dr. Stein otherwise does not comply with the terms delineated in paragraph two (2) above:

a. Both the PAP and Dr. Stein shall report same to the Executive Director of the Board and to the Office of the Attorney General within twenty-four (24) hours, Dr. Stein attaching a statement of his reasons for a positive drug test and/or failure to comply with the urine testing program;

b. Additional urine monitoring may be required at the discretion of the PAP or Board without regard to the frequency limitations set forth herein; and

c. Upon proof of a material violation of this Order, and in the sole discretion of the Board, Dr. Stein's license to practice medicine shall be summarily suspended. Dr. Stein shall have the right to request an emergent hearing before the Board, or such member(s) as the Board President may designate, on forty-eight (48) hours notice to the Attorney General. That hearing shall be limited to the issue of whether this Order has been violated.

4. Dr. Stein shall submit to a psychiatric evaluation by a Board nominated and approved psychiatrist within thirty (30) days of the date of the entry of this Order. This evaluation shall include any psychological testing at the discretion of the psychiatrist. A copy of the psychiatric evaluation shall be transmitted by the psychiatrist within ten (10) days of the completion of his/her report to the PAP, Executive Director of the Board and the Attorney General.

5. Respondent shall provide any and all releases to any and all parties participating in the monitoring, treating or other program as outlined herein, as may be required in order that all reports, records and pertinent information may be provided to the Board in a timely manner and used by the Board in the event of any further licensing proceeding.

6. After one (1) year of successful compliance with all the terms contained above, Dr. Stein shall be permitted to petition the Board for termination of the probation imposed in paragraph 1 and/or modification of future PAP monitoring.

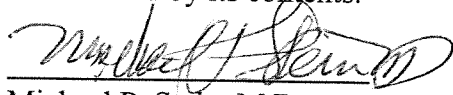
7. Dr. Stein shall pay costs and attorney's fees in the amount of \$5,500 to the Board within 10 days of execution of the within Order. Said payment shall be via certified check or money order made payable to the Treasurer, State of New Jersey and forwarded to William Roeder, Executive Director, New Jersey State Board of Medical Examiners, 140 East Front Street, P.O. Box 183, Trenton, New Jersey 08625-0183. The Board reserves the right to file a Certificate of Debt in the event payment is not submitted within 10 days of the filing of this Order; and

8. Dr. Stein shall comply with the "Directives" attached hereto as Exhibit A which are incorporated herein by reference.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By: Sindy Paul, MD
Sindy Paul, M.D., President

I have read and understood
the within Order and agree
to be bound by its contents.




Michael P. Stein, M.D.

Dated: 5/9/07

Consented to as to form and
entry.

Kern, Augustine, Conroy & Schoppmann, P.C.
Attorneys for Michael P. Stein, M.D.


Steven I. Kern, Esq.

Dated: 5/9/07

EXHIBIT A

DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE HAS BEEN ACCEPTED

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.) A licensee whose license has been revoked, suspended

for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by

means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

NAME
NJ License #

ADDENDUM

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number¹: _____

List the Name and Address of any and all Health Care Facilities with which you are affiliated:

List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:

Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

¹Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.